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Mrs. Alice Williams
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RE: DONATIONS TO PRIVATE GROUPS

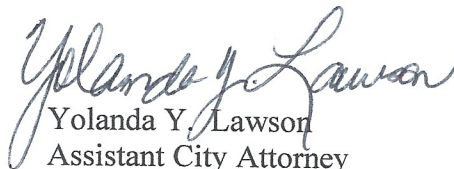
The Law Department has received a request concerning Neighborhood Associations ability to approve "Donations" of City funds to various groups.

The Alabama Constitution generally prohibits a City from donating or giving money or anything of value to a private business, association or person unless they meet certain requirements for promotion of economic and industrial development. Neighborhood Associations are subject to the same restrictions as the City when recommending the expenditure of funds. Section 94 of the Alabama Constitution of 1901 states:

"The legislature shall not have power to authorize any county, city, town or other subdivision of this state to lend its credit, or to grant public money or thing of value in aid of, or to any individual, association, or corporation whatsoever or to become a stockholder in any such corporation, association, or company by issuing bonds or otherwise."

There is an exception-where the City contracts for the purchase of goods or services and the compensation is equivalent to the value of the goods or services provided and Section 94 would not be violated. The City may contract with a private group to provide goods and services if the Council determined that the City has the statutory authority for the contracting of the goods and/or services and there is a need for the provision of the same.

Requests for "donations", in direct or indirect form, should be denied or routed to the Mayor's Office of Economic Development. If a business or entity wishes to contract with the City for services directly benefitting a Neighborhood Association, it should submit a contract proposal to the City along with a completed Transparency in City Government Disclosure Form along with all required and applicable documents as referenced therein. Of course, the restrictions of Section 94 of the Alabama Constitution do not apply to private (non-city) funds.


Yolanda Y. Lawson
Assistant City Attorney

Section 36-25-7

Offering, soliciting, or receiving anything for purpose of influencing official action; money solicited or received in addition to that received in official capacity.

- (a) No person shall offer or give to a public official or public employee or a member of the household of a public employee or a member of the household of the public official and none of the aforementioned shall solicit or receive anything for the purpose of corruptly influencing official action, regardless of whether or not the thing solicited or received is a thing of value.
- (b) No public official or public employee shall solicit or receive anything for himself or herself or for a family member of the public employee or family member of the public official for the purpose of corruptly influencing official action, regardless of whether or not the thing solicited or received is a thing of value.
- (c) No person shall offer or give a family member of the public official or family member of the public employee anything for the purpose of corruptly influencing official action, regardless of whether or not the thing offered or given is a thing of value.
- (d) No public official or public employee, shall solicit or receive any money in addition to that received by the public official or public employee in an official capacity for advice or assistance on matters concerning the Legislature, lobbying a legislative body, an executive department or any public regulatory board, commission or other body of which he or she is a member. Notwithstanding the foregoing, nothing in this section shall be construed to prohibit a public official or public employee from the performance of his or her official duties or responsibilities.
- (e) For purposes of this section, to act corruptly means to act voluntarily, deliberately, and dishonestly to either accomplish an unlawful end or result or to use an unlawful method or means to accomplish an otherwise lawful end or result.

(Acts 1973, No. 1056, p. 1699, §5; Acts 1975, No. 130, p. 603, §1; Acts 1995, No. 95-194, p. 269, §1; Act 2010-764, 1st Sp. Sess., §2; Act 2011-632, p. 1505, §1.)

Section 36-25-17

Reports of violations; cooperation of agency heads.

- (a) Every governmental agency head shall within 10 days file reports with the commission on any matters that come to his or her attention in his or her official capacity which constitute a violation of this chapter.
- (b) Governmental agency heads shall cooperate in every possible manner in connection with any investigation or hearing, public or private, which may be conducted by the commission.

(Acts 1973, No. 1056, p. 1699, §16; Acts 1975, No. 130, p. 603, §1; Acts 1995, No. 95-194, p. 269, §1.)